M.R.O. 14—5,450—22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1133 Press ~~Mis.~~

304-305

Dated 20—5— 1867.

Not to be folded or roughly handled

1133

Proceedings of the Madras Government, Revenue Department, 20th May 1867.

No. 304. Read the following letter from the Officiating Conservator of Forests, to the Secretary to Government, Revenue Department, Fort Saint George, dated Camp, Ootacamund, 27th March 1867, No. 2,286 :—

1. I have the honour to inform you that a custom is becoming quite prevalent in the forests of the Salem District for parties to take out licenses for one or two bandy loads of timber, and then to remove timber *ad libitum* until detected; and from the manner in which the Government Forest Rules are interpreted by the Civil authorities in this district, it will be impossible for our department to check smuggling, or to uphold the rules in any way.

2. Lieutenant Walker, the Deputy Conservator, lately detected a man who, with a license for only one bandy load of timber (Vengay), had trimmed up sixty bandy loads; the offender was prosecuted before the Head Assistant Magistrate, and sentenced to two months' imprisonment; an appeal was made to the Appellate Court, and the Civil and Session Judge reversed the sentence, and discharged the man without any punishment whatever. I forward herewith a copy of the Judge's decision* on the case. Government will perceive that he states that Forest Rules, not confirmed by the Forest Act, have not the force of law; that no forests can be considered Government property unless subject to the provisions of the Forest Act; and that when the Act is not in force, no offence whatever is committed by the felling of timber. The Deputy Conservator now informs me that this is becoming generally known throughout the district, and that the consequence is that everywhere the felling and removing of large quantities of timber with only a license for one bandy load, and even without any license whatever, is becoming quite general, and it is very clear that we cannot stop it if our Forest Rules are null and void, nor would it be of any avail prosecuting forest theft in the face of the Judge's remarks in the case alluded to.

* Dated 16th October 1866.

3. Our Forest Rules are generally upheld by the Civil authorities in other districts, and forest theft is punished by fine, imprisonment, or flogging, as the case may be, under the Penal Code, and infringements of the Forest Rules by confiscation or double seigniorage, &c. When punishment is known to follow conviction, clandestine felling is seldom attempted to any extent.

4. The subject of the Forest Act being made law in the Madras Presidency, is now before Government and the Board, and I have addressed the latter on the subject.† Government will observe that the Session Judge of Salem gives it as his opinion, that when the Act is in force the theft of timber is not punishable in any way beyond confiscation of the timber; this can, I think, never be intended; if a thief had no other punishment to fear than the loss of articles he was attempting to steal, there would be no limit to the amount of stealing and attempts to steal. In Mysore, where the Forest Act is in force, offenders are punished under the Penal Code for theft in addition to the penalties of confiscation under the Act, and this is, I believe, in accordance with the opinion expressed by Mr. Maine when the Forest Act was brought in.

† Letter No. 2,053, dated 24th October 1866.

Proceedings of the Madras Government, Revenue Department, 20th May 1867.

5. Forward, for the information of Government, a letter* from the Deputy Conservator, commenting upon the case of theft alluded to above.

* No. 181, dated 17th November 1866.

No. 305. ORDER THEREON, 20th May 1867, No. 1,133.

Forests, No. 9.

Communicated to the Board of Revenue, whose reply to Gr. O. dated 15th October 1866, No. 2,799, Revenue Department, the Government await.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.
,, the Conservator of Forests.

Exd. S. T. Augustin.

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No. 1133.
Communicated to the Bd. of Rev. & Con. of Forests.
G.O. of 15 Oct 66. No. 2799.
Rev. Dept. the Govt await.
S.T.A.
20th May/67.

14 Copies to the Bd of Revue Dept 20th
4 " Cons of Forests